

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

ANTOR MEDIA CORPORATION,

PLAINTIFF,

V.

(1) NOKIA, INC.,

(2) UTSTARCOM PERSONAL COMMUNICATIONS, LLC,

(3) AUDIOVOX COMMUNICATIONS CORPORATION,

(4) KYOCERA WIRELESS CORP.,

(5) SANYO NORTH AMERICA CORPORATION,

(6) SHARP ELECTRONICS CORPORATION,

(7) NEC AMERICA, INC.,

(8) RESEARCH IN MOTION CORPORATION,

(9) VIRGIN MOBILE USA, LLC,

(10) LG ELECTRONICS MOBILECOMM
U.S.A., INC.,

(11) PALMONE, INC., AND

(12) PANASONIC CORPORATION OF
NORTH AMERICA,

(13) NEC SOLUTIONS AMERICA, INC.

DEFENDANTS.

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Antor Media Corporation (“Antor”) for its First Amended Complaint against Defendants Nokia, Inc. (“Nokia”), UTStarcom Personal Communications, LLC (“UTStarcom”), Audiovox Communications Corporation (“Audiovox”), Kyocera Wireless Corp. (“Kyocera”), Sanyo North America Corporation (“Sanyo”), Sharp Electronics Corporation (“Sharp”), NEC America, Inc. (“NEC”), Research In Motion Corporation (“RIM”), Virgin Mobile USA, LLC

(“Virgin”), LG Electronics MobileComm U.S.A., Inc. (“LG”), palmOne, Inc. (“palmOne”), Panasonic Corporation of North America (“Panasonic”) and NEC Solutions America, Inc., alleges as follows:

THE PARTIES

1. Antor is a corporation duly organized and existing under the laws of the state of Texas, having a principal place of business in Plano, Texas.

2. Nokia is a corporation duly organized and existing under the laws of the state of Delaware, having a principal place of business at 6000 Connection Dr., Irving, TX 75039. Nokia has appeared and service is through its counsel.

3. UTStarcom is a corporation duly organized and existing under the laws of the State of Delaware, having a principal place of business at 555 Wireless Blvd., Hauppauge, NY 11788. UTStarcom has appeared and service is through its counsel.

4. Audiovox is a corporation duly organized and existing under the laws of the State of Delaware, having a principal place of business at 555 Wireless Blvd., Hauppauge, NY 11788. Audiovox has appeared and service is through its counsel.

5. Kyocera is a corporation duly organized and existing under the laws of the state of Delaware, having a principal place of business at 10300 Campus Point Dr., San Diego, CA 92121. Kyocera has appeared and service is through its counsel.

6. Sanyo is a corporation duly organized and existing under the laws of the state of Delaware, having a principal place of business at 2055 Sanyo Ave., San Diego, CA 92154. Sanyo has appeared and service is through its counsel.

7. Sharp is a corporation duly organized and existing under the laws of the state of New York, having a principal place of business at Sharp Plaza, Mahwah, NJ 07430-2135. Sharp has appeared and service is through its counsel.

8. NEC is a corporation duly organized and existing under the laws of the State of New York, having a principal place of business at 6555 N. State Highway 161, Irving, TX 75039. NEC has appeared and service is through its counsel.

9. RIM is a corporation duly organized and existing under the laws of the state of Delaware, having a principal place of business at 25227 Grogan Mill Rd., Suite 125, The Woodlands, TX 77380. RIM has appeared and service is through its counsel.

10. Virgin is a corporation duly organized and existing under the laws of the state of Delaware, having a principal place of business at 10 Independence Blvd., Warren, NJ 07059. Virgin has appeared and service is through its counsel.

11. LG is a corporation duly organized and existing under the laws of the state of California, having a principal place of business at 10225 Willow Creek Rd., San Diego, CA 92131. LG has appeared and service is through its counsel.

12. palmOne is a corporation duly organized and existing under the laws of the state of Delaware, having a principal place of business at 400 N. McCarthy Blvd., Milpitas, CA 95035. palmOne has appeared and service is through its counsel.

13. Panasonic, formerly known as Matsushita Electric Corporation of America (MECA), is a corporation duly organized and existing under the laws of the state of Delaware, having a principal place of business at One Panasonic Way, Secaucus, NJ 07094-2197. Panasonic has appeared and service is through its counsel.

14. NEC Solutions America, Inc., is a corporation duly organized and existing under the laws of the state of Delaware, having a principal place of business at 10850 Gold Center Drive, Ste 200, Rancho Cordova, CA 95670. NEC Solutions America, Inc., has an agent for Service of process as: CT Corporation System, 818 West 7th Street, Los Angeles, CA 90017.

JURISDICTION

15. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.* The Court has personal jurisdiction over the Defendants in that each of them has committed acts within Texas and this judicial district giving rise to this action and each of the Defendants has established minimum contacts with the forum such that the exercise of jurisdiction over each of the Defendants would not offend traditional notions of fair play and substantial justice.

VENUE

16. Antor does business and has an office in Collin County, Texas, in this district. Each of the Defendants has committed acts within this judicial district giving rise to this action and does business in this district, including making sales and/or providing service and support to their respective customers in this district. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) (c), and 1400(b).

INFRINGEMENT OF U.S. PATENT NO. 5,734,961

17. On March 31, 1998, United States Patent No. 5,734,961 (the '961 Patent) was duly and legally issued for an invention entitled "Method and Apparatus for Transmitting Information Recorded on Information Storage Means from a Central Server to Subscribers via a High Data Rate Digital Telecommunications Network." Antor was assigned the '961 Patent and Antor continues to hold all rights and interest in the '961 Patent.

18. Each of the Defendants has infringed and continues to infringe the '961 Patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or

offer for sale of products and services related to the downloading of media, such as video, music and ringtones, to devices via a network, such as the Internet; the practice of the methods claimed in the '961 Patent; and inducing and contributing to the manufacture, use, sale, importation, and/or offer for sale of such products and services and the practice of the methods claimed in the '961 Patent. Each of the Defendants is liable for infringement of the '961 Patent pursuant to 35 U.S.C. § 271.

19. Each of the Defendants' acts of infringement has caused damage to Antor, and Antor is entitled to recover from each Defendant the damages sustained by Antor as a result of their individual wrongful acts in an amount subject to proof at trial. Each of the Defendants' infringement of Antor's exclusive rights under the '961 Patent will continue to damage Antor's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

20. Upon information and belief, Defendants' infringement of the '961 Patent is willful and deliberate, entitling Antor to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Antor prays for judgment and seeks relief against each of the Defendants as follows:

- (a) For judgment that the '961 Patent has been and continues to be infringed by each Defendant;
- (b) For an accounting of all damages sustained by Antor as the result of the acts of infringement by each Defendant;
- (c) For preliminary and permanent injunctions enjoining the aforesaid acts of infringement by each Defendant, their officers, agents, servants, employees,

subsidiaries and attorneys, and those persons acting in concert with them, including related individuals and entities, customers, representatives, OEMS, dealers, distributors;

- (d) For actual damages together with prejudgment interest;
- (e) For enhanced damages pursuant to 35 U.S.C. § 284;
- (f) For an award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law;
- (g) For all costs of suit; and,
- (h) For such other and further relief as the Court may deem just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff Antor Media Corporation demands a trial by jury.

Respectfully submitted this 31st day of March, 2006.

/s/Robert M. Chiaviello, Jr.
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